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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,629	02/26/2004	Jac Yun Hwang		3080

7590
DOHYUN PARK
200 Old Palisade road, Apt. #2H
Fort Lee, NJ 07024

EXAMINER

TOMPKINS, ALISSA JILL

ART UNIT	PAPER NUMBER
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3765

MAIL DATE	DELIVERY MODE
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07/16/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/786,629

Applicant(s)

HWANG, JAE YUN

Examiner

ALISSA J. TOMPKINS

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Applicant's amendment filed 4/3/2008 has been received. Claims 1-6 are still pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foshier (U.S. 4,386,437) in view of Harris (U.S. 4,499,741). Foshier discloses a baseball style cap 1 comprising a crown main body 3 having a plurality of panels including four rear panels 5 of nylon mesh material, a front panel 7, a visor/brim portion 37 secured to a forward portion of a peripheral edge of the crown main body and extending outwardly therefrom (Figures 1, 2, and 6). A headband 41 is attached along the lower peripheral edge of the crown.

However, Foshier is missing a headband that has indicia on it that can be seen through the mesh material of the cap. Harris shows a stretchable knitted

article/headband 20 that has a design printed on it. It is well known that any type of indicia could be used such as logos, numbers, pictures, figures, embroidery etc. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the headband of Harris to modify the headband of Fosher in order to provide a cap with mesh panels having a printed headband design underneath.

Response to Arguments

Applicant's arguments filed 4/3/2008 have been fully considered but they are not persuasive.

Applicant submits that Fosher fails to disclose or suggest the panels of the crown portion are made of mesh material and overlapped with the emblems which is represented on the outside of the headband. However, as noted above, Fosher discloses a cap having nylon mesh panels (Column 2, 19). The rejection states that Fosher is missing a headband with indicia, which is why Harris is brought in to show a headband with indicia. The prior art of Fosher and Harris meets all the limitations as claimed by the applicant.

Applicant submits that Fosher fails to disclose or suggest upper the brim portion secured to a forward portion of a peripheral edge of the crown portion. This argument is unclear. However, the claim language requires a visor portion secured to a forward portion of a peripheral edge of said crown main body and extending outwardly

therefrom. Fosher discloses the structure of this limitation. The examiner does not see a difference in the visor of Fosher and the present invention.

Applicant submits that Harris fails to disclose or suggest the panels of the crown portion made of mesh material and overlapped with the emblems which is represented on the outside of the headband. The Office Action does not state that Harris discloses all of those features. However, the Office Action does state that Harris is used to teach a headband with indicia. When combined with the prior art of Fosher, Harris meets the limitations as claimed by the applicant.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALISSA J. TOMPKINS whose telephone number is (571)272-3425. The examiner can normally be reached on M-F 830-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alissa J. Tompkins/
Examiner, Art Unit 3765

/Gary L. Welch/
Supervisory Patent Examiner, Art Unit 3765